

111TH CONGRESS
2D SESSION

H. R. 5515

To amend the Federal Power Act to establish a regional transmission planning process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2010

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Power Act to establish a regional transmission planning process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Powering America for
5 Tomorrow Act”.

6 **SEC. 2. AMENDMENT OF THE FEDERAL POWER ACT.**

7 Section 216 of the Federal Power Act (16 U.S.C.
8 824p) is amended as follows:

1 (1) By amending the section heading to read as
2 follows: “**REGIONAL TRANSMISSION PLANS FOR**
3 **THE INTERSTATE TRANSMISSION SYSTEM**”.

4 (2) By striking subsection (i) and redesignating
5 subsections (j) and (k) as subsections (k) and (l), re-
6 spectively.

7 (3) By redesignating subsections (d) through
8 (h) as subsections (f) through (j), respectively.

9 (4) By striking subsections (a), (b), and (c) and
10 inserting the following:

11 “(a) PURPOSES.—The purposes of this section are as
12 follows:

13 “(1) To ensure electric reliability, fuel diversity,
14 and wholesale power price stability across the elec-
15 tric transmission grid.

16 “(2) To reinforce, strengthen, and enhance elec-
17 tric transmission infrastructure as an integrated net-
18 work system.

19 “(3) To facilitate the development of clean en-
20 ergy resources that cannot be located near an exist-
21 ing transmission facility or load center.

22 “(4) To assist States and electric energy service
23 providers in meeting the requirements of applicable
24 renewable portfolio standards.

1 “(5) To take maximum advantage of smart grid
2 technologies to promote electric grid improvements,
3 energy efficiency, and demand response.

4 “(6) To coordinate regional planning and local
5 siting of interstate high-voltage electric transmission
6 systems.

7 “(b) DEFINITIONS.—In this section:

8 “(1) The term ‘bulk-power system’ has the
9 meaning given such term in section 215(a)(1).

10 “(2) The term ‘Electric Reliability Organiza-
11 tion’ has the meaning given such term in section
12 215(a)(2).

13 “(3) The term ‘designated region’ means a re-
14 gion designated under subsection (c)(1).

15 “(4) The term ‘regional entity’ has the meaning
16 given such term in section 215(a)(7).

17 “(5) The term ‘regional transmission plan’
18 means a comprehensive plan required under sub-
19 section (c)(3) for the development of the interstate
20 electric transmission system in a designated region.

21 “(6) The term ‘regional transmission planner’
22 means an entity approved under subsection (c)(2) to
23 develop and maintain a regional transmission plan
24 required under this section.

1 “(7) The term ‘regional transmission project’
2 means an overhead or underground transmission fa-
3 cility, consisting of conductors or cables, towers,
4 manhole duct systems, phase shifting transformers,
5 reactors, capacitors, substations, and any ancillary
6 facilities and equipment necessary for the proper op-
7 eration of the facility—

8 “(A) that—

9 “(i) operates at or above a voltage
10 of—

11 “(I) 230 kilovolts alternating
12 current; or

13 “(II) 300 kilovolts direct current;

14 “(ii) is a very high current conductor
15 or superconducting cable that operates at
16 or above a power equivalent to the power
17 of a conventional transmission cable oper-
18 ating at or above 230 kilovolts alternating
19 current or 300 kilovolts direct current; or

20 “(iii) is a renewable feeder line; and

21 “(B) that is included in a regional trans-
22 mission plan submitted to the Commission
23 under subsection (c)(3).

24 “(8) The term ‘renewable feeder line’ means a
25 transmission line that—

1 “(A) operates at or above a voltage of 100
2 kilovolts; and

3 “(B) is identified in a regional trans-
4 mission plan submitted to the Commission
5 under subsection (c)(3) as a facility that is to
6 be developed to facilitate collection of electric
7 energy produced by renewable energy.

8 “(c) REGIONAL TRANSMISSION PLANS.—

9 “(1) DESIGNATION OF REGIONS.—Not later
10 than 12 months after the date of enactment of this
11 subsection, the Commission, in consultation with the
12 Electric Reliability Organization, regional entities,
13 Transmission Organizations, transmission owners,
14 State regulatory authorities of the States compro-
15 mising the Eastern Interconnection, and State regu-
16 latory authorities of the States compromising the
17 Western Interconnection, shall designate one or
18 more regions within the Eastern Interconnection and
19 one or more regions within the Western Interconnec-
20 tion, to be represented by regional transmission
21 planners approved under paragraph (2). In deter-
22 mining the appropriate size and scope of a region,
23 the Commission shall consider the optimal scope
24 needed to ensure comprehensive regional trans-
25 mission planning and operational efficiency, the size

1 and scope of existing Regional Transmission Organi-
2 zations and operating bulk-power systems, and
3 methods for interregional coordination agreements to
4 ensure a sufficiently broad regional transmission
5 planning process.

6 “(2) REGIONAL TRANSMISSION PLANNERS.—

7 “(A) APPLICATION AND APPROVAL.—Any
8 person or entity, including a Regional Trans-
9 mission Organization or other regionally based
10 planning entity with an established regional
11 transmission planning process, as determined
12 by the Commission, may submit an application
13 to the Commission for approval as the regional
14 transmission planner for a designated region.
15 Not later than 18 months after the designation
16 of a region under paragraph (1), the Commis-
17 sion shall approve one such regional trans-
18 mission planner for each such designated region
19 to develop and maintain a regional transmission
20 plan required under this section.

21 “(B) CONSIDERATION.—In approving a re-
22 gional transmission planner under subpara-
23 graph (A), the Commission shall consider the
24 existing or reasonably anticipated capabilities of
25 any regionally based planning entity described

1 in such subparagraph in regional transmission
2 planning.

3 “(C) CONTENTS OF APPLICATION.—An ap-
4 plicant entity shall include in an application for
5 approval as the regional transmission planner
6 for a designated region the operating proce-
7 dures of such applicant entity and any method
8 such applicant entity will use to adhere to the
9 requirements for a regional transmission plan-
10 ning process described in paragraph (5).

11 “(D) COMPLIANCE.—The Commission may
12 review the compliance of a regional trans-
13 mission planner approved under subparagraph
14 (A) with the requirements of this section and
15 any regulations thereunder. If the Commission
16 finds such a regional transmission planner has
17 failed or is failing to comply with such require-
18 ments or regulations, the Commission may re-
19 voke the approval of such regional transmission
20 planner for a designated region and accept ap-
21 plications for a new regional transmission plan-
22 ner for such region to be approved in accord-
23 ance with this section.

24 “(3) REGIONAL TRANSMISSION PLAN RE-
25 QUIRED.—Not later than 2 years after the approval

1 of a regional transmission planner under paragraph
2 (2), and every 2 years thereafter, such regional
3 transmission planner shall submit to the Commission
4 an initial or updated regional transmission plan that
5 meets the requirements of this section. The Commis-
6 sion shall ensure that each such plan is the result
7 of a planning process that adhered to the require-
8 ments for a regional transmission planning process
9 described in paragraph (5). The Commission shall
10 make all regional transmission plans submitted
11 available to the public.

12 “(4) REGIONAL TRANSMISSION PLAN DESIGN.—
13 A regional transmission plan required under this
14 section shall, with respect to a designated region—

15 “(A) be designed to—

16 “(i) maintain and enhance the eco-
17 nomic, reliability, and energy security ben-
18 efits of the regional electric transmission
19 system, including remediation of electric
20 grid congestion; and

21 “(ii) anticipate and facilitate develop-
22 ment of electric energy generation from di-
23 verse energy resources; and

24 “(B) consider whether proposals to expand
25 and upgrade high voltage electric transmission

1 in the designated region and across the bound-
2 aries of the designated region will minimize
3 congestion and promote service reliability, mar-
4 ket integration and efficiency, economic devel-
5 opment, deployment of smart grid technologies,
6 lowest cost delivered electric energy at whole-
7 sale, and the goals of applicable renewable port-
8 folio standards.

9 “(5) REGIONAL TRANSMISSION PLANNING
10 PROCESS.—The Commission shall ensure each re-
11 gional transmission planning process conducted by a
12 regional transmission planner is consistent with the
13 purposes of this section. The Commission shall en-
14 sure any such planning process—

15 “(A) is non-discriminatory, independent,
16 and conforms with the planning standards of
17 Commission Order No. 890 or any successor
18 order;

19 “(B) solicits and considers the input of
20 local and State policymakers, transmission facil-
21 ity owners and electric utilities, and market
22 participants;

23 “(C) is sufficiently broad in geographic
24 and market scope to produce economic and
25 operational efficiencies;

1 “(D) is designed to meet the need for the
2 timely construction or modification of regional
3 transmission projects; and

4 “(E) takes into account—

5 “(i) all applicable laws and regula-
6 tions governing the procurement of electric
7 energy generation;

8 “(ii) the potential effect on the future
9 operation of the electric transmission sys-
10 tem or on the regional transmission plan of
11 rejection or withdrawal of a proposed re-
12 gional transmission project;

13 “(iii) the development of transmission
14 facilities for which a completed application
15 for authorization has been filed and ac-
16 cepted by a State regulatory authority or
17 other applicable authority before the date
18 of submission of a regional transmission
19 plan under paragraph (3) but not origi-
20 nating from the planning process;

21 “(iv) the availability of non-trans-
22 mission resources such as opportunities for
23 energy efficiency, demand response, en-
24 hancements to economic dispatch, distrib-
25 uted generation, and installation of new

1 control, metering, or capacity enhancement
2 technologies; and

3 “(v) the development of the interstate
4 electric transmission system in the des-
5 ignated region for the 10 years after sub-
6 mission of a regional transmission plan
7 under paragraph (3).

8 “(6) TRANSMITTING UTILITIES AND POWER
9 MARKETING ADMINISTRATIONS.—Federal power
10 marketing administrations and transmitting utilities
11 in a designated region shall integrate their trans-
12 mission plans with the regional transmission plans
13 required by this section and shall otherwise partici-
14 pate in a regional transmission planning process by
15 a regional transmission planner in accordance with
16 this section.

17 “(7) COMMISSION ACTIVITIES.—If no regional
18 transmission planner for a designated region is ap-
19 proved under paragraph (2), or in the event that an
20 approved regional transmission planner does not
21 timely submit a regional transmission plan as re-
22 quired under paragraph (3), the Commission shall
23 designate a planner or undertake the planning ac-
24 tivities described in this subsection for the des-
25 ignated region concerned and develop such a plan

1 for such designated region expeditiously, in consulta-
2 tion with State regulatory authorities, as applicable,
3 for all affected States or areas, the Electric Reli-
4 ability Organization, regional entities, Transmission
5 Organizations, and transmission owners within the
6 region, as appropriate.

7 “(8) COST ALLOCATION.—Not later than 18
8 months after the date of enactment of this para-
9 graph, the Commission shall, by rule, require that
10 all regional high voltage electric transmission cost al-
11 location processes and methodologies adhere to a
12 clear and consistent set of regulatory principles, in-
13 cluding, as appropriate, that the costs of siting and
14 the construction or modification of transmission fa-
15 cilities shall be allocated consistent with the range
16 and distribution of benefits within the designated re-
17 gion that are provided by such facilities, the use of
18 the transmission system, or with other equitable and
19 economic considerations. In issuing a rule under this
20 paragraph, the Commission shall consider regional
21 cost allocation processes and methodologies being de-
22 veloped or in existence as of the date of enactment
23 of this paragraph.

24 “(9) PLAN COORDINATION.—The Commission
25 shall require regional transmission planners to co-

1 ordinate planning across regional boundaries within
2 an Interconnection in order to achieve the purposes
3 of this section.

4 “(d) CERTIFICATE OF PUBLIC CONVENIENCE AND
5 NECESSITY.—

6 “(1) PROPOSED FINDING OF PUBLIC CONVEN-
7 IENCE AND NECESSITY BY REGIONAL TRANSMISSION
8 PLANNER.—

9 “(A) INCLUSION OF PROPOSED FINDING IN
10 REGIONAL TRANSMISSION PLAN.—As part of a
11 regional transmission plan submitted to the
12 Commission under subsection (c)(3), a regional
13 transmission planner may identify a regional
14 transmission project or projects that such re-
15 gional transmission planner finds, based on the
16 record of the regional transmission planning
17 process, is required by, and consistent with, the
18 public convenience and necessity.

19 “(B) PUBLIC CONVENIENCE AND NECES-
20 SITY CERTIFICATE REQUEST.—A regional
21 transmission planner may submit to the Com-
22 mission a request to issue a certificate of public
23 convenience and necessity for a regional trans-
24 mission project identified in a regional trans-
25 mission plan submitted under subsection (c)(3).

1 Such request shall include a summary of the
2 record developed for such project during the re-
3 gional transmission planning process. The re-
4 quest shall be based on whether such regional
5 transmission project is or will be—

6 “(i) necessary to ensure regional com-
7 pliance with reliability standards or remedy
8 violations of such reliability standards;

9 “(ii) necessary to provide significant
10 relief from electric transmission congestion
11 as measured by objective criteria, including
12 consideration of the total cost of conges-
13 tion, hours of congestion, and the lack of
14 feasible economic alternative means to re-
15 lieve congestion;

16 “(iii) important to the diversification
17 of energy supply throughout the designated
18 region, including by meeting the goals of
19 applicable renewable portfolio standards; or

20 “(iv) important to the development of
21 smart grid technology that is consistent
22 with the policy under title XIII of the En-
23 ergy Independence and Security Act of
24 2007 (15 U.S.C. 17381 et seq.).

1 “(2) ISSUANCE OF CERTIFICATE OF PUBLIC
2 CONVENIENCE AND NECESSITY.—The Commission
3 may, after notice and opportunity for hearing, find
4 that a regional transmission project is in the public
5 convenience and necessity and issue a certificate of
6 public convenience and necessity for the ownership
7 and operation of such regional transmission project
8 and the provision of any related services under the
9 jurisdiction of the Commission if the Commission
10 finds that—

11 “(A) a regional transmission planner in-
12 cluded a proposed finding of public convenience
13 and necessity for such proposed regional trans-
14 mission project in one or more relevant regional
15 transmission plans submitted to the Commis-
16 sion under subsection (c)(3);

17 “(B) a regional transmission planner sub-
18 mitted a request for the issuance of such a cer-
19 tificate;

20 “(C) the proposed regional transmission
21 project will be used for the transmission of elec-
22 tric energy in interstate commerce;

23 “(D) the proposed regional transmission
24 project is consistent with the public interest in
25 terms of its engineering, reliability, and other

1 economic characteristics and the purposes of
2 this section; and

3 “(E) the proposed regional transmission
4 project will maximize, to the extent reasonable
5 and economical, existing rights-of-way and the
6 transmission capabilities of existing towers and
7 structures.

8 “(3) CONSIDERATIONS.—In issuing a certificate
9 of public convenience and necessity under this sub-
10 section, the Commission shall give substantial def-
11 erence to any proposed finding of public convenience
12 and necessity by a regional transmission planner in
13 a regional transmission plan submitted under sub-
14 section (c)(3).

15 “(4) MULTIPLE PROJECTS.—The Commission
16 may treat multiple proposed regional transmission
17 projects in any regional transmission plan as sepa-
18 rate for purposes of determining whether a certifi-
19 cate of public convenience and necessity should be
20 issued under this subsection.

21 “(5) CERTIFICATE APPLICATIONS.—The Com-
22 mission shall issue rules specifying—

23 “(A) the form of the application for a cer-
24 tificate of public convenience and necessity
25 under this subsection; and

1 “(B) the information to be contained in
2 such application.

3 “(6) ENVIRONMENTAL REVIEW.—

4 “(A) PROPOSED FINDING BY REGIONAL
5 TRANSMISSION PLANNER.—A proposed finding
6 by a regional transmission planner of public
7 convenience and necessity regarding a regional
8 transmission project is excluded from review
9 under the National Environmental Policy Act of
10 1969 (42 U.S.C. 4321 et seq.), provided an en-
11 vironmental assessment or environmental im-
12 pact statement is required to be prepared by
13 the Commission under such Act.

14 “(B) CONSIDERATION BY COMMISSION.—
15 The Commission may consider, wholly or in
16 part, any draft environmental analysis con-
17 ducted by a regional transmission planner or
18 relevant transmission provider and issued by
19 the regional transmission planner.

20 “(e) SITING AUTHORITY.—

21 “(1) EXCLUSIVE STATE SITING AUTHORITY.—A
22 State shall retain exclusive authority over the siting
23 of any transmission facility that is not a part of a
24 regional transmission project for which a certificate

1 of public convenience and necessity has been issued
2 under subsection (d)(2).

3 “(2) FEDERAL SITING AUTHORITY.—The Com-
4 mission may, after notice and an opportunity for
5 hearing, issue one or more permits for the construc-
6 tion or modification of electric transmission facilities
7 if the Commission finds that—

8 “(A) the transmission facility was identi-
9 fied as part or all of a regional transmission
10 project for which a certificate of public conven-
11 ience and necessity has been issued under sub-
12 section (d)(2); and

13 “(B) the—

14 “(i) State in which the transmission
15 facility is to be sited does not have author-
16 ity to—

17 “(I) approve the siting of the fa-
18 cility; or

19 “(II) consider the interstate ben-
20 efits expected to be achieved by the
21 proposed siting of the transmission fa-
22 cility in the State;

23 “(ii) applicant for a permit is a trans-
24 mitting utility but does not qualify to
25 apply for a permit for the proposed trans-

mission facility in a State because the applicant does not serve end-use customers in the State; or

“(iii) State commission or other entity that has authority to approve the siting of the transmission facility—

“(I) did not issue a decision on an application seeking approval for the siting of the facility within 1 year after the date the applicant submitted a completed application to the State commission or other authority;

“(II) denied a complete application seeking approval for the siting of the transmission facility; or

“(III) authorized the siting of the facility subject to conditions that unreasonably interfere with the siting of the transmission facility.”.

(5) In subsection (f), as redesignated by paragraph (3), by striking “subsection (b)” and inserting “subsection (e)”.

(6) In subsection (g), as redesignated by paragraph (3), by striking “subsection (b)” and inserting “subsection (e)”.

1 (7) In subsection (h), as redesignated by para-
2 graph (3), by striking “subsection (e)” and inserting
3 “subsection (g)”.

4 (8) In subsection (k)(2), as redesignated by
5 paragraph (2), by striking “Subsection (h)(6)” and
6 inserting “Subsection (j)(6)”.

7 (9) By amending subsection (l), as redesignated
8 by paragraph (2), to read as follows:

9 “(l) APPLICABILITY.—This section applies only to
10 States located in the Western Interconnection and States
11 located in the Eastern Interconnection and does not apply
12 to the States of Alaska or Hawaii, or to areas under the
13 authority of the Electric Reliability Council of Texas.”.

○